

March 1, 1950.

Re: American Philips Companies

Honorable J. Tenney Mason, Chairman
Industrial Employment Review Board
Room 2-8-832, National Defense Building
Washington, D. C.

Dear Sir:

With further reference to your letter of February 17, the American Philips Companies ask that the following be made a part of the record:

1. The Hartford National Bank and Trust Company as Trustees under the N. V. Philips Trusts; Meers, Louis Van Zelm, Ellwood Colahan and Francois T. Christy, all of New York, as Advisory Committee under the said Trust; and Philips Industries, Inc., North American Philips Company, Inc., Amperex Corporation, Philips Laboratories, Inc., Philips Export Corporation, Knickerbocker Carriers, Inc., and L.P. Gramer, Inc., hereinafter generally referred to as "The American Philips Companies", enter a formal denial of the charge made by the Navy as set forth in the letter of the Board dated February 17, 1950.
2. The American Philips Companies are prepared to refute the charges stated, but wish an exception noted to the ruling of Board declining to give specifications or to make the charge more definite and certain.

The American Philips Companies take the position that:

There are no present relations between American Philips and N. V. Philips which subject American Philips in any respect to the control or influence of foreign interests which may jeopardize the security interests of the United States; but that they are entitled to be told, at least generally, (1) what aspects of the relations between American Philips Companies and N. V. Philips, and (2) what present relations between American Philips and N. V. Philips, and (3) what circumstances, may "jeopardize the security of the United States". American Philips Companies take this position because, while they can meet any reasonably defined issue, it is impossible to prove a universal negative, and because the wording of the charge apparently relates to unspecified future possibilities arising out of the relations of a foreign corporation which American Philips do not control and which does not control American Philips.

OSD DECLASSIFICATION/RELEASE INSTRUCTIONS ON FILE

BERLE, BERLE, AGEE & LAND

70 Pine Street
New York 5, N. Y.

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American Philips, of course, is and has always been prepared to enter discussions or to take measures suggested by the security authorities of the United States; and indeed, the charge suggests such discussions quite as much as presentation of evidence.

The charge as made appears to boil down in one aspect to the situation of N. V. Philips. We do not represent and cannot represent this company, but we have communicated the ruling of the Board to N. V. Philips, with the suggestion that they be represented in this proceeding by independent counsel or by the Netherlands Embassy, or in such other manner as they may deem proper. The security of N. V. Philips as a supplier of the United States Government is, of course, not concerned here. Its security as a supplier within the Atlantic Pact is, of course, immensely important to it and apparently also to the Netherlands Government.

The American Philips Companies will, of course, present evidence as to their own security and as to the absence of control by N. V. Philips. N. V. Philips is entitled to present evidence demonstrating that relations with it do not "jeopardize the security interests of the United States".

Very truly yours,

A. A. Berle, Jr.

C O P Y

MUNITIONS BOARD
Washington 25, D.C.

MBIERB

23 FEB 1950

Mr. Adolf A. Berle
70 Pine Street
New York, N. Y.

Re: American Philips Companies

Dear Mr. Berle:

We have received your letter of 20 February 1950, in which you indicate that you will let us know within a few days whether the suggested date of 22 March 1950 is satisfactory for the hearing and also in which you request detailed specifications in support of the previously communicated "Basis for Withholding Navy Classified Matter from the American Philips Companies."

With respect to the latter request, it is the position of the Industrial Employment Review Board -- based on its procedures governing appeals, and its criteria governing actions (copies of all of which documents I believe are in your possession) -- that the Navy Department need indicate no more than its general basis for refusing to a contractor access to classified military information necessary for the negotiation, award, or performance of a contract. This is what the Navy Department has done, by stating that its decision to withhold classified matter from the American Philips Companies was based on the relationships of those companies with foreign interests under circumstances which may jeopardize the security interests of the United States. I refer you, in particular, to paragraph C2 of the aforementioned "Criteria Governing Actions by the Industrial Employment Review Board." A copy of the criteria, as amended, is inclosed for your information.

Furthermore, it is the position of the Navy Department, and concurred in by this Board, that security conditions do not permit detailed specifications in support of the Navy's basis for withholding clearance.

It is believed that this whole question of the nature of the relationships between American Philips Companies and N. V. Philips, its affiliates, suppliers, or customers, as well as the more fundamental problem of the effect which such relationships have on the safeguarding of military security, can be examined -- to the fullest extent compatible with military security -- during the proposed hearing before the Board on 22 March 1950. At that time you will be given full opportunity to present your case as to why, in your opinion, the American Philips Companies are not so controlled by or under the influence of foreign interests as justify, in the interests of security, the withholding of classified matter from American Philips in connection with the negotiation and award of Navy contracts.

Sincerely yours,

J. TENNEY MASON
Chairman
Industrial Employment Review Board

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